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WHOLE 2639

CLOSING OF THE 1905 SESSION

County Finance Bill Passes Over Veto—Oil Bill Fails—License Bill Vetoed—Kalihi Leper Hospital. County Joker Tabled—103 New Laws.

(From Thursday's Advertiser.)

At its night session the Senate put the quietus upon the leprosy bill, sustaining the Governor's veto thereof on the closest shave. Another notable thing the upper chamber did was to override by unanimous vote the Governor's veto of the county financial bill, evidently in determination to give county government all the rope it needed since the Legislature had passed a measure, also over the executive veto, to institute a system of that name.

In connection with this subject, the note of doubt in the Lane resolution later adopted—relative to an appeal to the United States Supreme Court from a possible nullification of the County Act by the Territorial Supreme Court—corresponds to a well-defined rumor to the effect that the county government politicians are giving themselves pause upon the question of carrying the matter to Washington, for fear that the Organic Act itself may be repealed.

There were frequent long recesses as the evening wore on to the last moment of the regular term of sixty days, to which the legislative session is limited unless extended by executive discretion for thirty days. These intermissions were to enable conference committees to work, as well as to await messages from the Governor and the House of Representatives.

At 1:20 o'clock this morning the House of Representatives ended its labors for the session by singing Hawaii Pono and making congratulatory speeches—the House to the Speaker and the Speaker to the House. Three rousing cheers were given for the Legislature of 1905, the Territory of Hawaii and the Administration.

The evening session was marked by the House Joint Conference Committee reporting a disagreement on the "Oil Bill" and the report was tabled, thereby killing the measure. The special committee appointed to investigate the alleged leprosy persons at the Kalihi Station reported that they were afflicted with the disease.

The House promptly overrode the Governor's veto of the financing measure of the County Bill by a big majority.

The expenses for the session were shown by the report of the Finance Committee to be \$28,000, or more than \$10,000 less than the session of two years ago. The resolution introduced by Holstein, providing that in case the Supreme Court here finds the County Act to be unconstitutional, the matter be carried to Congress with a request that that body make a county law for the Territory, was tabled on motion of Kaniho.

The House passed an evening partly in serious work on public measures, and partly in mirth, during frequent recesses.

SENATE—NIGHT SESSION.

Consideration of the Governor's veto of the Leprosy bill was the first business taken up at 9 o'clock, when the night session of the Senate opened. Immediately after the reading of the veto message by Clerk Savidge, the vote was taken and the bill failed to receive the necessary two-thirds vote. Hence the veto was sustained. Achi, Dowsett, Hayselden, Hewitt and Kalama went on the doubtful list at first, and when recalled Achi again held back until the last. The vote follows:

Ayes—Achi, Brown, Dowsett, Hayselden, Hewitt, Kalama, Lane, McCandless, Woods—9.
Noes—Blishop, Dickey, Gandall, Isenberg, Paris, Wilcox—6.

BILLS APPROVED.

Letters from the Governor announced that he had signed bills as follows: House bill No. 158 (Act 71) to provide for the protection of forest lands within the Territory of Hawaii.

House bill No. 148 (Act 72) to repeal Sections 1057 to 1062, inclusive, of the Revised Laws relating to Pol.

Senate bill No. 121 (Act 73), to appropriate money for the purpose of defraying the expenses of the special election of the year 1905 under the provisions of the County Act, from the public treasury.

House bill No. 163 (Act 74), to amend Sections 1776-1782 and 1786 of Chapter 119 of the Revised Laws entitled "Jurors and trial by jury," etc.

House bill No. 185 (Act 75) relating to trial jurors.

Senate bill No. 54 (Act 76) to amend section 2592 of the Revised Laws of Hawaii.

Senate bill No. 115 (Act 77) to amend section 2621 of the Revised Laws of Hawaii relating to taxation of insurance corporations and companies.

House bill No. 225 (Act 78) entitled: "An Act to amend Section 842 of Chapter 66 of the Revised Laws of the Territory of Hawaii."

House bill No. 194 (Act 79) relating to set-off, adding a new section to the Revised Laws.

Senate bill No. 114 (Act 80) entitled: "An Act to repeal Chapter 36 of the Revised Laws of Hawaii."

Senate bill No. 113 (Act 81) entitled: "An Act to amend Chapter 35 of the Revised Laws of Hawaii relating to diseases of animals."

Senate bill No. 112 (Act 82) entitled: "An Act to amend Sections 373, 383, and 390 of Chapter 23 of the Revised Laws of Hawaii relating to Board of Agriculture and Forestry, and adding to said Chapter 23 seven new Sections to be known as Sections 390A., 390B., 390C., 390D., 390E., 390F., and 390G."

House bill No. 57 (Act 83) to declare the effect of an adoption of a child.

House bill No. 96 (Act 84) relating to attachments.

House bill No. 160 (Act 85) making it a misdemeanor to sell or exchange

property under the representation, advertisement, notice or inducement that an unidentified, unknown, unselected, or chance prize, premium or premium-gift, or that a stamp, trading stamp, coupon or other like device entitled the holder to receive such a prize, premium or premium-gift, or that the redemption of such a stamp, trading stamp, coupon or other like device so given is to be part of the transaction, or to sell or exchange any trading stamp, stamp, coupon or other like device to aid such sale or exchange, as aforesaid and providing a penalty therefor.

House bill No. 129 (Act 86) to protect vested fishing rights.

Senate bill No. 102 (Act 88) relating to personal and property taxes amending Sections 1183, 1195, 1203, 1204, 1206, 1236, 1243, 1244, 1245, 1247, 1250, 1259, 1263, 1264, 1265, 1266, 1267 and 1269 of Chapter 98 of the Revised Laws of Hawaii, repealing Sections 1211 and 1229 thereof, and adding two new sections thereto, Sections 1215A. and 1215B.

House bill No. 221 (Act 92) to amend Section 1634 of the Revised Laws.

House bill No. 149 (Act 94) to repeal Sections 1373 and 1374, of the Revised Laws of Hawaii.

House bill No. 203 (Act 95) to amend Sections 2090, 2091 and 2093 of Chapter 123 of the Revised Laws of Hawaii, relating to summary proceedings to recover possession of land, and adding a new section thereto to be known as Section 2095A.

House bill No. 99 (Act 96) prohibiting certain government officers practicing law or acting as attorneys or counselors at law, during their term of office.

House bill No. 201 (Act 97) entitled: "An Act making appropriations for the departmental use of the Territory of Hawaii, except as to the item for 'Unpaid Bills, Jurors fees and expenses, Fifth Circuit Court to June 30, 1904, \$879.90' which I have vetoed."

House bill No. 189 (Act 98) to amend and re-enact Sections 2624, 2625 of the Revised Laws of Hawaii, relating to foreign corporations.

Senate bill No. 144 (Act 99) entitled: "An Act providing for the construction of roads through and from public lands opened for settlement."

Senate bill No. 40 (Act 100) entitled: "Relating to the bonds of public officials."

Senate bill No. 47 (Act 101) to amend section 1205 of the Revised Laws of Hawaii relating to the taxation of bicycles and adding a new section to be known as Section 1205A.

Senate bill No. 130 (Act 102) entitled: "An Act to establish a tax on gifts, etc."

Senate bill No. 6 (Act 103) to declare certain lands as public parks.

This was the last bill signed, the messages having been received at intervals up till 12 midnight.

VETO OVERRIDE.

The following veto message was received from the Governor, but the bill

THE GOVERNOR'S IMPRESSIONS OF THE SESSION.

Governor Carter, on leaving the Capitol at 12:45 this morning, was asked by an Advertiser reporter for his impressions of the session of 1905 in a dozen words.

"They have passed 103 Acts," the Governor replied. "The Legislature of 1903 passed 88 and the next highest was 79 by the session of 1898. They have tackled more hard subjects than almost any previous Legislature of Hawaii, and passed an unusually large proportion of important tax measures."

"Only one franchise has been passed. They have done a great deal of adjusting. In this they have been greatly helped by having the Revised Code, which showed them just what the laws were and where they needed adjustment."

Whereas this mission represents several thousands of Communicants, and owns real estate in different parts of the Territory, which is used for church and school purposes, and where no so used, is held for such use, when the population of the Territory shall warrant the same; and

A MESSAGE.

To the Legislature of the Territory of Hawaii:

Herewith, I return Senate Bill No. 138, entitled "An Act to Provide Funds for the Maintenance of Counties," which I am unable to approve.

The bill requires the Territory to make advances or loans to each of the counties, in that, irrespective of whether any county funds are in the possession of the Territorial Treasury the Auditor is obliged to issue a warrant each month for a proportion of the county's estimated revenues. And the Treasurer will be obliged to pay these warrants out of any funds he may have in the Treasury, without regard to the purpose for which these funds were collected. Thus if there happens to be just enough money in the Territorial Treasury to meet the warrants making advances to the counties, it will be absorbed for this purpose, and thereafter warrants issued in payment of Territorial obligations will have to be registered and interest paid on the same.

This feature is clearly objectionable, and I doubt if any Legislature has the right to put the money collected from the taxpayers for Territorial purposes to any such use.

GEORGE R. CARTER,

Governor.

Executive Chamber, April 26, 1905.

COUNTY RESOLUTION.

Senator Lane offered the following resolution, which was adopted:

"Whereas, it is commonly reported that the validity of the County Act is to be tested in the courts; therefore

"Resolved by the Senate of the Territory of Hawaii: That, if the Supreme Court of the Territory should nullify the County Act; and if there should be no appeal to the Supreme Court of the United States, or no time to make it so as to hold the County Election at the time provided in said Act, our Delegate to Congress be and is hereby earnestly requested to use his best endeavors to get a County Act passed at the next session of the Congress of the United States;

"Resolved: That a copy of this resolution be transmitted by the Secretary of the Senate to Hon. J. K. Kalaniana'ole, Delegate to Congress."

MESSAGES FROM HOUSE.

By letter the House informed the Senate:

That Senate bill 47 had passed third reading in that body.

That it had adopted the report of the joint conference on Senate bill 123.

That it had concurred in the Senate amendments to House bills 191, 218 and 225, respectively.

That it had failed to concur in the Senate amendments to House bill 193 and appointed Reps. Waterhouse, Rice and Cox to a conference committee.

The president appointed Kalama, Dowsett and Bishop as the Senate conferees.

That Senate bill 92 had passed third reading.

RESOLUTION ON LEPROSY.

Lane moved the following concurrent resolution, which was adopted:

"Resolved by the Senate of the Legislature of the Territory of Hawaii, the House of Representatives concurring: That it is the sense of the Legislature that the Board of Health of the Territory of Hawaii should detain for medical treatment at the Honolulu Kalihi Receiving Station, for a period of at least one year every person arrested for leprosy, in whom the disease is not far advanced, and whose case, therefore, because of not being in an advanced stage, may possibly be cured by persistent treatment, and that all Rules of the Board contrary to the spirit of this Resolution be abolished."

CATHOLIC LANDS.

Lane moved the following concurrent resolution, which was adopted:

Whereas, for more than seventy-five years past, the Bishop and Priests of the Roman Catholic Church have maintained and directed a mission in the Hawaiian Islands under the name of the Catholic Mission of the Hawaiian Islands; and

SHOULD SECURE AN EARLY TEST OF COUNTY ACT

It is Not Necessary to Wait for Secretary's Return Before Taking Law Into the Courts.

"Whatever is to be done in the way of testing the validity of the County Act, should be done quickly," said Attorney-General Andrews yesterday. "Indeed, it should be done at once. What form will the proposed action take? I do not know. It may come as a writ of prohibition directed to forbidding the Secretary of the Territory proceeding with the call for an election under the act, or in the form of a writ of mandamus."

"And what effect will the absence of Secretary Atkinson have upon any proposed action?"

"None at all. We will accept service for him."

There is, in fact, no reason for delay in the matter, and every reason why action should be hastened. The legislature, under the call of the Governor, meets on Monday to enact the appropriation bills. Presumably, the members will want to go ahead with the needed legislation as speedily as may be.

But they cannot go ahead and act intelligently until they know what is to be the fate of the County Act—although, of course, they may go ahead and act, and probably will. But until the County Act has been adjudicated by the courts they will be in the air. As to whether the County Act will stand the legal test is entirely a matter of opinion—but legislatures cannot pass appropriation bills on opinion. Until the County Act is knocked out, if it is to be knocked out, the legislature must frame its laws with a view to the exigencies of the act. They must conduct themselves precisely as though it were on the statute books for all time.

And appropriation bills passed to fit that kind of condition would not answer at all, in case the County Act should be knocked out by the courts. In that case, if the appropriation bills were passed, and the statesmen had gone home, of course there would have to be another session to pass new appropriation bills—or, at least, it would be a question for the lawyers as to whether there would have to be. And, anyway, the situation would be considerably complicated, and the element of anger would enter into the problem, too.

Of course the courts cannot be hurried up, and should not be perhaps on a matter of such importance, nevertheless if the gentlemen who are to contest the County Act were to file their process at once, whatever form it is to take, there is every probability that the Territorial Supreme Court could reach a decision upon the validity of the act in ample time for the coming extra session of the legislature to be governed by it.

And then, if the battle is carried to the United States Supreme Court, as it is now hinted that it will be in the case the County Act should be declared invalid by the Territorial Supreme Court, there would at least be no hitch in running the affairs of the Territory pending a final decision upon the matter by the highest tribunal in the land. For, as a matter of course, the United States Supreme Court would decline to permit itself to be hurried by the Territory of Hawaii. A test case could be put through the Territorial Supreme Court as government business, advanced on the calendar and argued at the earliest moment, but that would be as far as haste could go. That would be sufficient, however, for legislative purposes. A fight that might involve the validity of the Organic Act itself, or of the amendments to it, would be a matter of longer time, necessarily.

However, despite the need for haste, no open steps were taken yesterday looking to testing the validity of the County Act.

ONE NEW LAW THAT MAY BE INOPERATIVE

There may be a little trouble in store in the enforcement of the law just passed by the legislature providing for the bonding of Territorial officials. The bill provides that the heads of all governmental departments shall be bonded in amounts to be fixed by the Governor within ten days, the first day being yesterday. The heads of departments, in turn, are to bond the officials under them. The bonds being fixed, the bonds are to be filed within thirty days—and, if they are not, the offices are to be declared vacant. As this clearly legislates out of office officials whose places are created by the Organic Act, it is very likely that on this point the act will be inoperative. And this conceding that the Governor could fix the bonds, and the officials could give them within the required time.

Again, it is provided in the act that in case any official shall give as security the bond of a surety company, the cost of such bond shall be paid by the Territory—and the act carries with it no appropriation to enforce this provision. To be sure, the surety companies would probably wait for the passage of an appropriation bill, with the alternative of cancelling the bond if the charge were not paid, but that would be an unsatisfactory kind of arrangement all around.

And, anyhow, the new law—one that is likely to prove inoperative because of the first objection to it, even if the Governor could prepare for its enforcement within the required ten days.

The following bills have been presented and not paid:

Thompson & Clemons\$ 50.00

(Continued on page 4.)